

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHEASTERN DIVISION

Mitchell David Holbach,

Plaintiff,

-vs-

North Dakota State Hospital, Alex
Schweitzer, Administrator, Dr. Allan, Dr.
Pryatel, Dr. Coombs, Dr. Yabut, and North
Dakota State Attorney General Wayne
Stenjehm,

Defendants.

Case No. 3:13-cv-95

**ORDER ADOPTING REPORT AND
RECOMMENDATION**

On February 20, 2014, the Court received a Report and Recommendation from the Honorable Karen K. Klein, United States Magistrate Judge, pursuant to 28 U.S.C. § 636, recommending that the following motions filed by Mitchell David Holbach be denied: (a) to proceed *in forma pauperis* (Doc. #2); (b) for protective and emergency relief (Doc. #5); (c) for sanctions (Doc. #15); and (d) to add an additional defendant (Doc. #15). Holbach has filed objections to the Report and Recommendation (Doc. #18). The Court has considered the magistrate judge's Report and Recommendation and reviewed all of Holbach's objections, and now issues the following order.

Holbach contends he is being subjected to a "reign of terror", primarily because he is being forcibly medicated at the request of the state hospital. There has been a request in state court to forcibly medicate Holbach. Dr. Pryatel, MD, has opined that Holbach has a "high risk of aggression toward staff in the absence of forced medications." (Doc. #18-6). There is no evidence that Holbach is being forcibly medicated without a court order, or that he is at risk of serious physical injury. Upon a review of all of the filings in the case, the Court finds Holbach

has not demonstrated that he faces imminent danger of serious physical injury. The Court further finds the magistrate judge's analysis is correct. The Court hereby adopts the Report and Recommendation in its entirety. For the reasons stated therein, **IT IS HEREBY ORDERED AS FOLLOWS:**

- (1) Holbach's motion to proceed *in forma pauperis* (Doc. #2) is **DENIED**;
- (2) Holbach's motion for protective and emergency relief (Doc. #5) is **DENIED**;
- (3) Holbach's motion for sanctions (Doc. #15) is **DENIED**; and
- (4) Holbach's motion to add a defendant (Doc. #15) is **DENIED**.

This case is hereby dismissed without prejudice to reopening upon the payment of the filing fee. The Court certifies that any appeal would be frivolous, could not be taken in good faith, and may not be taken *in forma pauperis*.

IT IS SO ORDERED.

Dated this 26th day of March, 2014.

/s/ Ralph R. Erickson
Ralph R. Erickson, Chief Judge
United States District Court